

Douglas J. Payne (A4113)  
Robert G. Crockett (A12067)  
FABIAN & CLENDENIN,  
A Professional Corporation  
215 South State, Suite 1200  
Salt Lake City, Utah 84111-2323  
dpayne@fabianlaw.com  
rcrockett@fabianlaw.com  
Telephone: (801) 531-8900  
Fax: (801) 596-2814

*Attorneys for Gateway Center, LLC*

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH

	)	
	)	
	)	Bankruptcy Case No. 09-29905
In Re:	)	Jointly Administered with Cases 09-29907
	)	and 09-29908
	)	
EASY STREET HOLDING, LLC, <i>et al.</i>	)	Chapter 11
	)	
Debtors.	)	Honorable R. Kimball Mosier
	)	
	)	<b>GATEWAY CENTER, LLC'S</b>
	)	<b>OBJECTION TO WRONA LAW</b>
	)	<b>FIRM'S SIXTH FEE APPLICATION</b>
	)	
	)	

Gateway Center, LLC ("**Gateway**"), through its attorneys Fabian & Clendenin, pursuant to the *Order Approving Motion and Establishing Monthly Fee and Expense Reimbursement Procedures* dated December 15, 2009 [Dkt. 271], objects to the *Wrona Law Firm's Sixth Professional Fee Request for the Period from April 1, 2010 to April 30, 2010* [Dkt. 479] (the "**Sixth Wrona Fee Application**") as follows:

1. Debtors Easy Street Partners, LLC, Easy Street Mezzanine, LLC, and Easy Street Holding, LLC (collectively, the “**Debtors**”) are debtors-in-possession in the above-entitled jointly administered Chapter 11 cases.

2. On October 19, 2009, the Debtors filed an application [Dkt. 102] to employ the Wrona Law Offices, LLC (“**Wrona**”) as special counsel.

3. The application requested that the Debtors be authorized to employ Wrona as special counsel to provide a very broad scope of services:

The specific services which may be provided by Wrona Law Offices are:

- a. Advising the Debtors on litigation, bankruptcy and financing matters, including the negotiation and structure of debtor-in-possession financing;
- b. Representing the Debtors in connection with this proceeding, including adversarial actions within this proceeding; and
- c. Representing and advising Debtors with regard to issues related to the complex relationships within Debtor’s [sic] organization, and between Debtor [sic] and its [sic] fractional interest unit owners.

Application [Dkt. 102], at ¶ 12.

4. The Court granted the Debtors’ application to employ Wrona as special counsel with respect to a broad scope of matters by Order dated December 15, 2009. [Dkt. No. 218].

5. In January 2009, Debtor Easy Street Partners, LLC (“**Partners**”) agreed to assume the interest in and obligations of Cloud Nine Resorts, LLC (“**Cloud Nine**”) as lessee under lease (“**Lease**”) of real property located in Park City, Utah, that Cloud Nine was leasing from Gateway.

6. Cloud Nine as the original lessee was not released from liability under the Lease when Partners agreed to assume it. Cloud Nine is an affiliate of Partners, and is controlled by Partners' principal and managing member, William Shoaf ("**Shoaf**").

7. Shoaf executed a personal guaranty of the obligations of Cloud Nine and Partners under the Lease in which Shoaf obligated himself to Gateway in his individual capacity.

8. On March 11, 2010, Gateway filed a lawsuit against Cloud Nine and Shoaf in Third District Court for Summit County, Utah, seeking damages for their obligations under the Lease and personal guaranty, respectively, *Gateway Center, LLC v. Cloud Nine Resorts, LLC and William Shoaf*, Civil No. 100500193 (the "**State Court Lawsuit**"). Neither Partners nor either of the other debtors in the above-entitled jointly administered bankruptcy is a party to the State Court Lawsuit.

9. After Gateway served Cloud Nine and Shoaf with a summons and complaint, Wrona telephoned Rob Crockett, one of Gateway's attorneys, and indicated he would be representing Cloud Nine and Shoaf in the State Court Lawsuit.

10. A few days after receiving the call in which Mr. Wrona indicated he would be representing Cloud Nine and Shoaf, Mr. Crockett suggested to Mr. Wrona that the parties to the State Court Lawsuit stipulate to an extension of time for the defendants to file an answer because of the possibility that the then-pending objection to Gateway's claim in Partners' bankruptcy might resolve certain issues relating to the Lease. Mr. Wrona agreed.

11. On April 13, 2010, Wrona, acting as counsel for defendants Cloud Nine and Shoaf, executed a *Stipulation to Extend Time for Defendants to Respond to the Complaint*

(“**State Court Stipulation**”) and filed it with the Third District Court for Summit County, Utah.

A copy of the State Court Stipulation is attached hereto as **Exhibit “A.”**

12. On May 13, 2010, Wrona filed the Sixth Wrona Fee Application for the period April 1, 2010 through April 30, 2010. The detailed time entries attached to application include several entries in which Wrona provided legal services to the Debtors regarding the State Court Lawsuit or the Gateway Lease. *See* time entries dated April 6 and April 20, 2010.

13. Similarly, a number of time entries in Wrona’s immediately prior fee application similarly reflected that Wrona has represented the Debtors in connection with the State Court Lawsuit or the Lease. *See* time entries dated March 15, March 24, and March 29 in Fifth Wrona Fee Application [Dkt No. 424].

14. Wrona’s representation of Shoaf and Cloud Nine in the State Court Lawsuit regarding the Lease with Gateway constitutes the representation of an interest adverse to the estate with respect to which Wrona has been employed within the meaning of 11 U.S.C. § 327(e).

15. In addition, a number of entries in the Sixth Wrona Fee Application, totaling 1.1 hours, are for services that appear to have been provided exclusively to Cloud Nine and Shoaf in the State Court Lawsuit. *See, e.g.,* time entries dated April 8 (0.6 hours), April 12 (0.3 hours), and April 13, 2010 (0.2 hours).

16. Hence, Wrona not only represented interests adverse to the estate, but is impermissibly requesting that the estate pay for services provided to insiders, namely Cloud Nine and Shoaf.

WHEREFORE, Gateway prays for entry of an Order:

A. Denying the Sixth Wrona Fee Application in its entirety on the grounds that Wrona is not disinterested on a matter on which he has been representing the estate;

B. In the event the Court does not deny the Sixth Wrong Fee Application in its entirety, the Court should, at the very least, deny compensation for services provided for insiders Cloud Nine and Shoaf; and

C. For such other and further relief as the Court deems just and equitable.

DATED this 24<sup>th</sup> day of May, 2010.

/s/ Douglas J. Payne

Douglas J. Payne

Robert G. Crockett

**FABIAN & CLENDENIN**

A Professional Corporation

*Attorneys for Gateway Center, LLC*

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing was served on this 24<sup>th</sup> day of May, 2010, via ECF Notification, on the following:

Troy J. Aramburu	taramburu@joneswaldo.com, rhuot@joneswaldo.com
Michael V. Blumenthal	mblumenthal@crowell.com
Kenneth L. Cannon II	kcannon@djplaw.com
Scott A. Cummings	cummings.scott@dorsey.com
Steven B. Eichel	seichel@crowell.com
George B. Hofmann	gbh@pkhlawyers.com, dh@pkhlawyers.com
Mary Margaret Hunt	hunt.peggy@dorsey.com, brown.patricia@dorsey.com, smith.ron@dorsey.com, slc.lit@dorsey.com
Annette W. Jarvis	jarvis.annette@dorsey.com, smith.ron@dorsey.com, slc.lit@dorsey.com, brown.patricia@dorsey.com
Lon A. Jenkins	lajenkins@joneswaldo.com, krichardson@joneswaldo.com, ecf@joneswaldo.com, rhuot@joneswaldo.com
Michael R. Johnson	mjohnson@rqn.com, agale@rqn.com
Anthony C. Kaye	kaye@ballardspahr.com, swand@ballardspahr.com
Benjamin J. Kotter	kotter.benjamin@dorsey.com, smith.ron@dorsey.com, brown.patricia@dorsey.com, slc.lit@dorsey.com
Adelaide Maudsley	maudsley@chapman.com, jemery@chapman.com
Steven J. McCardell	smccardell@djplaw.com
John T. Morgan tr	john.t.morgan@usdoj.gov, james.gee@usdoj.gov
David W. Overholt	doverholt@rsolaw.com, abachman@rsolaw.com
Knute Rife	karife@rifelegal.com
Jeffrey L. Shields	jlshields@cnmlaw.com, njpotter@cnmlaw.com
Jeffrey Weston Shields	jshields@joneswaldo.com, rhuot@joneswaldo.com
United States Trustee	USTPRegion19.SK.ECF@usdoj.gov
Kim R. Wilson	bankruptcy_krw@scmlaw.com

I further certify that a true and accurate copy of the foregoing was served on this 24<sup>th</sup> day of May, 2010, via first-class mail on the following:

Corbin B. Gordon  
Corbin B. Gordon, P.C.  
345 West 600 South, Suite 108  
Heber City, UT 84032-2247

Joseph E. Wrona  
Wrona Law Firm, P.C.  
1745 Sidewinder Drive  
Park City, UT 84060

Easy Street Partners, LLC  
4780 Winchester Court  
Park City, UT 84098

/s/ Douglas J. Payne

ND: 4836-3106-1510, v. 1

EXHIBIT “A”



Robert G. Crockett (A12067)  
Diane H. Banks (A4966)  
FABIAN & CLENDENIN,  
a Professional Corporation  
215 South State Street, Suite 1200  
Salt Lake City, Utah 84111-2323  
Telephone: (801) 531-8900  
Fax: (801) 532-3370  
Attorneys for Plaintiff  
rcrockett@fabianlaw.com  
dbanks@fabianlaw.com

IN THE THIRD JUDICIAL DISTRICT COURT

SUMMIT COUNTY, STATE OF UTAH

GATEWAY CENTER, LLC, a Utah limited  
liability company,

Plaintiff,

v.

CLOUDNINE RESORTS, LLC, a Utah  
limited liability company; WILLIAM  
SHOAF, an individual,

Defendants.

**STIPULATION TO EXTEND TIME FOR  
DEFENDANTS TO RESPOND TO THE  
COMPLAINT**

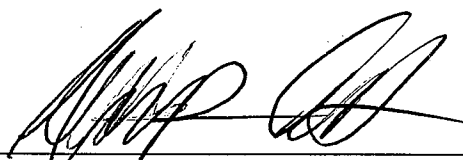
Civil No. 100500193

Judge Bruce Lubeck

Robert G. Crockett, counsel for Plaintiff Gateway Center, LLC, and Joseph E. Wrona, counsel for Defendants Cloudnine Resorts, LLC and William Shoaf (collectively "Defendants") hereby stipulate that Defendants' time to respond to Plaintiff's Complaint is extended until seven (7) calendar days following the receipt of written notice from the Plaintiff to Defendants stating the need to respond.

The parties further stipulate that Defendants will give Plaintiff seven (7) days written notice prior to filing an answer or other response to the Complaint if Plaintiff has not yet required a response.

DATED this 9<sup>th</sup> day of April, 2010.



Robert G. Crockett  
Diane H. Banks  
FABIAN & CLENDENIN,  
a Professional Corporation  
Attorneys for Plaintiff

DATED this 13<sup>th</sup> day of April, 2010.




Joseph E. Wrona  
WRONA LAW FIRM  
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 13<sup>th</sup> day of April, 2010, I caused the foregoing **STIPULATION TO EXTEND TIME FOR DEFENDANTS TO RESPOND TO THE COMPLAINT** to be served via United States Mail, first class postage pre-paid, a true and correct copy to:

Robert G. Crockett  
Diane H. Banks  
FABIAN & CLENDENIN  
215 South State Street, Suite 1200  
Salt Lake City, Utah 84111-2323

  
\_\_\_\_\_